

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 384 Session of  
1993

INTRODUCED BY D. R. WRIGHT, VEON, M. COHEN, BELARDI, RUDY,  
STABACK, PRESTON, BELFANTI, KUKOVICH, DALEY, TRELLO, FREEMAN,  
COWELL, PISTELLA, LEVDANSKY, MICHLOVIC AND LAUGHLIN,  
FEBRUARY 10, 1993

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 10, 1993

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937  
2 P.L.2897, No.1), entitled "An act establishing a system of  
3 unemployment compensation to be administered by the  
4 Department of Labor and Industry and its existing and newly  
5 created agencies with personnel (with certain exceptions)  
6 selected on a civil service basis; requiring employers to  
7 keep records and make reports, and certain employers to pay  
8 contributions based on payrolls to provide moneys for the  
9 payment of compensation to certain unemployed persons;  
10 providing procedure and administrative details for the  
11 determination, payment and collection of such contributions  
12 and the payment of such compensation; providing for  
13 cooperation with the Federal Government and its agencies;  
14 creating certain special funds in the custody of the State  
15 Treasurer; and prescribing penalties," providing for shared  
16 work programs, for further duties of the Department of Labor  
17 and Industry, and for eligibility and benefits.

18 It is hereby declared to be the policy of the Commonwealth to  
19 encourage and stabilize employment wherever possible. Market  
20 forces often cause cyclical periods of unemployment beyond the  
21 control of either the employer or the worker. Resulting layoffs  
22 cause workers lost income, benefits and self-esteem, affecting  
23 not only the worker, but also his family and the community.  
24 Cyclical layoffs are equally damaging to the employer, who loses

1 skilled workers, disrupts the work force and is less able to  
2 respond appropriately to changes in customer demand. The regular  
3 unemployment insurance program is designed to lessen the impact  
4 of layoff on both the worker and the community by providing a  
5 temporary wage replacement to the laid-off individual worker. In  
6 certain situations, where employment demands potentially may  
7 return, it is appropriate to use unemployment insurance to  
8 sustain the employment of a group of workers.

9 It is therefore declared to be the policy of the Commonwealth  
10 to encourage the use of and provide an alternative to full-time  
11 employment insurance benefits through a shared work compensation  
12 program in order to help sustain employment. A shared work  
13 program is a voluntary program for both public and private  
14 employers and workers which allows unemployment insurance  
15 benefits to be paid to a group of workers who work a reduced  
16 number of hours instead of a portion of that group of workers  
17 being laid off on a full-time basis. Shared work compensation  
18 reduces the impact of layoffs while allowing employers to keep a  
19 trained, skilled work force capable of responding to changes in  
20 demand.

21 It is further the policy of the Commonwealth to encourage the  
22 maximum degree of flexibility for employers and employees to  
23 design a work sharing plan compatible with needs of the  
24 individual workplace and to administer shared work compensation  
25 with a minimum of administrative obstacles while promoting the  
26 use of shared work compensation as a voluntary alternative to  
27 full-time layoff.

28 The General Assembly of the Commonwealth of Pennsylvania  
29 hereby enacts as follows:

30 Section 1. The act of December 5, 1936 (2nd Sp.Sess., 1937

P.L.2897, No.1), known as the Unemployment Compensation Law, is amended by adding an article to read:

ARTICLE XIII

SHARED WORK PROGRAM

Section 1301. Definitions.--The following words and phrases, as used in this article, shall have the following meanings unless the context clearly requires otherwise.

(a) "Employer" includes both public and private employers.

(b) "Full-time hours" means the normal full-time hours of the employer but not more than forty hours per week, and not including overtime as defined in the Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.).

(c) "Shared work program" means a program to stabilize the work force during times of reduced work load, otherwise resulting in layoffs, by the sharing of the work remaining after a reduction in the total hours of work and a corresponding reduction in employees' wages.

(d) "Work force" means the total work force or a definable unit or shift thereof. The department shall encourage flexibility by accepting, as a "definable unit," a unit of workers as agreed to by the employer and the collective bargaining agent for the employees.

Section 1302. Application of Article.--This article shall apply to claimants and their employers whose application to participate in a shared work program has been approved by the department. The other provisions of this act shall apply to those claimants and their employers to the extent that they are not inconsistent with this article. The claimant shall not, however, be required to be available for work, search for work, apply for or accept work with any other employer.

1     Section 1303. Qualified Employers.--(a) An employer who has  
2 at least three full-time employees may apply to participate in a  
3 shared work program. The application shall be made according to  
4 those forms and procedures as the department may specify and  
5 shall include a plan by the employer to implement a shared work  
6 program, as well as any information the department may require.  
7 In determining whether to approve the application, the  
8 department shall take into account the nature and size of the  
9 enterprise, its frequency of personnel turnover, the local  
10 unemployment rate, or any other factors which may affect the  
11 efficiency and utility of the shared work program.

12     (b) (1) The department shall not approve the application  
13 unless the employer:

14     (i) Agrees that, for the duration of the program, the  
15 employer will consider the work force as continuing on full-time  
16 status for fringe benefits.

17     (ii) Supplies a certification from the collective bargaining  
18 agent or agents for the employees, if any, attesting agreement to  
19 participate in the program.

20     (iii) Will reduce or restrict the claimant's weekly full-  
21 time hours of work, or has rehired a claimant previously laid  
22 off and reduced his weekly hours of work from those previously  
23 worked, in accordance with the plan submitted by the employer to  
24 implement a shared work program, provided the program requires  
25 not less than a ten per centum nor more than a forty per centum  
26 reduction in hours among the work force.

27     (iv) Certifies that the shared work program shall not exceed  
28 twenty-six consecutive weeks and that, if not for the shared  
29 work program to be initiated, the employer would reduce or would  
30 have reduced its work force to a degree equivalent to the total

number of working hours proposed to be reduced or restricted for all included employees in the specified unit.

(v) Certifies that the employer will not hire additional part-time or full-time employees for the affected work force while the program is in operation without prior approval of the department and the employee bargaining agent, if any.

(2) In addition, the department shall not approve an application if it is apparent that the reduction in work force is permanent in nature, unless the employer demonstrates that the permanent reduction in the work force can be accomplished through other means, including attrition during the time in which the employer is participating in a shared work program; nor shall the department approve any application if the effect of that employer's shared work plan is to deny to employees the benefits provided under section 1306(a).

(c) The department shall take steps necessary to facilitate the use of the shared work program, including, but not limited to:

(1) Establishment of reasonable guidelines and procedures deemed necessary to expedite approval of shared work plans.

(2) Approval or disapproval of employer proposals within fifteen days of receipt of the proposal by the department; and the department shall notify the employer of the reasons for a denial of a shared work plan within ten days after a determination. Should the department fail to notify the employer of denial of application within thirty-five days, the application shall be presumed approved.

(3) Establishment of a form for weekly submission by the employer of those employees who are deemed eligible for a weekly shared work benefit. This form shall include the week's

percentage reduction in full-time hours and shall be mailed to the department no later than seven days following the work sharing week. The form shall be considered a submission for benefits by the employe and shall eliminate any requirement for the employe to report to the department.

(d) Approval by the department of a shared work plan shall be valid for twenty-six weeks, at which time the employer may submit another application for renewal. Should the department fail to act on the renewal application within fifteen days of receipt, the renewal application shall be presumed approved.

Section 1304. Revocation of Approval.--(a) For good cause, the department may, in its discretion, revoke approval of an employer's application previously granted. Good cause may include, but shall not be limited to, failure to comply with the assurances and certifications required under section 1303, failure to supply information requested relative to the operation of a shared work program, unreasonable revision of productivity standards for the work force, or other conduct or occurrences tending to defeat the purposes, intent and effective operation of a shared work program.

(b) The employer or the employe bargaining agent may withdraw from a shared work program at any time during the approved period; however, this withdrawal shall be effective two weeks after it is sent to the department.

Section 1305. Eligibility Conditions.--(a) A claimant shall be eligible for benefits under this article if he:

(1) Would otherwise be eligible under this act.

(2) Works less than his normal full-time hours in a week for his customary employer under an approved shared work program.

(b) No individual who receives any benefits under this

1 article during any benefit week shall be eligible for or receive  
2 any benefits under Article IV-A.

3 Section 1306. Benefit Amounts.--(a) An eligible claimant  
4 shall be deemed eligible for benefits, for any week, equal to  
5 his weekly benefit rate multiplied by the per centum of  
6 reduction of his hours resulting from a reduction in the  
7 employee's full-time hours of work, but only if this per centum  
8 is no less than twenty per centum and no more than forty per  
9 centum. The employer shall submit on forms provided the names  
10 and per centum of reduction of each employee affected weekly.

11 (b) Except wages payable by the regular employer not in  
12 excess of wages payable for reduced hours of work assigned an  
13 individual by the regular employer under a shared work plan, any  
14 amount payable under this article shall be reduced by the amount  
15 of any and all compensation payable for personal services,  
16 whether performed as an employee or an independent contractor.  
17 The employee shall certify by means determined by the department  
18 whether or not the compensation was received during a week that  
19 a shared work benefit was payable. In cases where a shared work  
20 benefit should have been reduced by other wages, the overpayment  
21 shall be deducted from the next payments made under this act.  
22 However, an allowance shall be made for the partial benefit  
23 credit provided for in section 404(d) calculated on the basis of  
24 the benefit amount as determined under subsection (a) of this  
25 section.

26 (c) The department shall establish a procedure which allows  
27 claimants to report earnings and meet the other eligibility  
28 requirements of the shared work program through the mail or  
29 through some manner equally convenient to the claimant.

30 Section 1307. Maximum Payments.--In no event shall total

1 benefits paid in any benefit year under this article and any  
2 other provisions under this act exceed the maximum amount for  
3 which a claimant would be eligible under Article IV.

4 Section 1308. Commencement.--A shared work program and  
5 payment of benefits to claimants thereunder shall begin with the  
6 first week following approval of an application by the  
7 department or the first week specified by the employer,  
8 whichever is later, and with regard to any waiting week  
9 requirements imposed by law.

10 Section 1309. Reimbursement.--Employers with a negative  
11 reserve account balance as of the computation date shall pay  
12 reimbursement to the Unemployment Compensation Fund equal to the  
13 amount of benefits paid from the fund for their shared work  
14 program. This reimbursement shall be made on a quarterly basis  
15 under regulations of the department.

16 Section 1310. Report to General Assembly.--During the third  
17 year that the program is in operation, the department shall  
18 submit a report to the General Assembly on the use and operation  
19 of the program. The department shall include in its report the  
20 numbers and types of employers utilizing this program, the  
21 effect of the program on the fund and the number of employers  
22 affected plus any other information the department deems  
23 relevant.

24 Section 1311. Expiration of Article.--This article shall  
25 expire four years from the effective date hereof.

26 Section 2. This act shall take effect immediately.